

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D. C. 20548

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FILE: B-193737

DATE: March 14, 1979

MATTER OF: William F. Murray - Claim for Retroactive  
Promotion and Backpay

DIGEST: Claim for retroactive promotion and backpay is denied where record fails to support contention that claimant was actually detailed to established grade GS-15 position. Authorization for a grade GS-15 position contained in Department of the Army Table of Distribution and Allowances does not, by itself, officially establish that position.

This decision concerns a request for reconsideration of our Claims Division Settlement No. Z-2769968, October 27, 1978, which denied the claim of William F. Murray for retroactive temporary promotion and backpay.

The record indicates that Mr. Murray was a civilian employee of the U.S. Army Materiel Command, SAM-D Project Office, Redstone Arsenal, Alabama. He was assigned to the position of Supply Management Officer, grade GS-14. On August 2, 1971, he was detailed "to a set of duties" as Acting Director, System Support Division, SAM-D Project Office. Undisputed statements by his supervisor indicate that this detail officially terminated on October 2, 1971. Mr. Murray was reassigned to a supervisory position, "Supply and Maintenance Officer," GS-14, on March 12, 1972. This position required him to serve as Chief, System Support Division. He remained in this position until December 15, 1973. On December 16, 1973, he was promoted to the position of Supervisory Logistics Management Specialist, grade GS-15. Mr. Murray contends that he is entitled to a retroactive temporary promotion and backpay for the period August 2, 1971, through December 15, 1973. He bases his claim on the fact that during this period of time he acted as Chief of the System Support Division and that this position was described as a GS-15 position on the Army Table of Distribution and Allowances (TDA) during this period of time. For the reasons stated below we find that Mr. Murray is not entitled to a temporary promotion and an award of backpay because there was no established GS-15 position to which he was actually detailed.

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In our Turner-Caldwell cases, 55 Comp. Gen. 539 (1975) and 56 Comp. Gen. 427 (1977), we held that, for purposes of the Back Pay Act, 5 U.S.C. § 5596, an agency has no authority, absent prior Civil Service Commission (CSC) approval, to detail an employee to a higher graded job beyond 120 days. Where an agency does not obtain such approval and keeps an employee on an overlong detail, the employee is deemed to have been temporarily promoted from the 121st day until the employee is returned to his regular duties. Such an employee is entitled to backpay for the period during which he was illegally detailed. A detail for purposes of these cases involves the temporary assignment of an employee to a different position within the same agency for a brief, specified period, with the employee returning to regular duties at the end of the detail. CSC Bulletin No. 300-40, May 25, 1977. We have held that the position to which the individual is detailed must be an established one, classified under an occupational standard to a particular grade or pay level. B-185730, June 1, 1977. The issues in the instant case are whether the description of the position of Chief, System Support Division, as a GS-15 position contained in the TDA was sufficient to "establish" that position and, if so, whether Mr. Murray was illegally detailed thereto.

Paragraph 2-30 of the Army Regulations, 310-49 (March 2, 1970), provides:


"Civilian position grading. a. Civilian spaces. The TDA reflects the authorization of 'spaces' for establishment of civilian 'positions.' Initially, a civilian space can be shown for position planning purposes as a line entry and given a tentative title, grade, and series, projected by the civilian personnel officer on the basis of job information available at the time. However before the space can be filled, a civilian position must be officially established and classified in accordance with instructions and procedures contained in the Federal Personnel Manual and DA civilian personnel regulations. The TDA, therefore, indicates the authorization of a space, but it does not determine whether a civilian position is officially established or whether an employee is entitled to fill the position. Further, the TDA \* \* \* does not constitute the official approval of pay category, title, series, or grade.

This will be determined by application of regulations and standards issued by the Civil Service Commission and the Department of the Army. Once the position has been established officially, a corrected line entry will be processed to the final classification of the position." (Emphasis supplied.)

This regulation clearly indicates that the authorization contained in the TDA for the classification of a particular civilian position does not, by itself, officially establish that position or constitute an official approval of pay category, title, series, or grade. The official establishment of positions contained in the TDA depends on approval obtained in accordance with applicable regulations and standards of the CSC and the Department of the Army.

In the instant case the Department of the Army has submitted a statement by Mr. Murray's supervisor that the position of Chief, System Support Division, was not an officially established position during the period from August 2, 1971, through December 15, 1973. Further, the Army has submitted uncontested evidence that Mr. Murray was not officially detailed during that period of time. Mr. Murray has submitted no proof other than the bare authorization contained in the TDA that the position of Chief, System Support Division, was an established GS-15 position. As noted above, this authorization, by itself, is not the official establishment of a position. Therefore, we cannot determine that a grade GS-15 position was established. B-185730, June 1, 1977. In addition, the record fails to support Mr. Murray's contention that he was actually detailed to a higher graded position. Therefore, the Turner-Caldwell cases are not for application in his claim. B-189673, February 23, 1978.

Accordingly, the decision of our Claims Division is affirmed.

  
Deputy Comptroller General  
of the United States